IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 20233 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BHARATKUMAR JENTILAL PARIKH - Petitioner(s)

Versus

STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

MR UM SHASTRI for Petitioner(s) : 1,
GOVERNMENT PLEADER for Respondent(s) : 1,
RULE SERVED for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 02/02/2006

ORAL JUDGMENT

1.By way of this petition under Article 226 of the Constitution of India, the petitioner has prayed for an appropriate writ, direction or order directing the

respondents to issue certificate to the petitioner to practice under the provisions of Ayurvedic and Unani System of Medicines Act; 1951 and permit the petitioner to also practice Alopathic drugs for administration to the patients.

2. It is required to be noted that earlier the petitioner had preferred Special Civil Application No.808 of 2001 for the same reliefs which came to be dismissed on merits by the learned Single Judge of this Court vide its judgment and order dated 19.10.2001. However, it is the contention on behalf of the petitioner that subsequently some other two persons have approached the Civil Court i.e. Learned Civil Judge (SD), Jamnagar and obtained the ad-interim relief and the petitioner is similarly situated and therefore, the petitioner has preferred the present Special Civil Application for the aforesaid reliefs.

3. It is required to be noted that the order passed by this Court would prevail over the interim order passed by the learned Civil Court. The very petitioner had earlier preferred Special Civil Application No.808 of 2001 which came to be dismissed by this Court on merits

and therefore, so far as the petitioner is concerned, it is not open for the petitioner to file another petition on any ground whatsoever, more particularly, when the petitioner has already accepted the said order. On the contrary, the order passed by the learned Civil Judge (SD), Jamnagar is required to be quashed and set aside however, the said order is not under challenge before this Court and therefore, this Court has not expressed any opinion on the merits with regard to the order passed by the learned Civil Judge (SD), Jamnagar passed in Regular Civil Suit No.60 of 2001. However, as stated herein above, on dismissal of the Special Civil Application No.808 of 2001 filed by the petitioner, the present Special Civil Application cannot be entertained and the same is required to be dismissed and is, accordingly, dismissed. Rule is discharged however, there will be no order as to costs.

(M.R.SHAH, J.)

kdc.